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As a study in the failures of republican government the system of discriminating legislation and special favors to corporations will attract attention. When the campaign banners have been folded and the newspaper drudges have ceased to print their deadly stuff on corporations, trusts, and the tariff, the trust problem itself will turn out to be no problem at all, except so far as it constitutes a part of the larger discussion on the limits of state-activity. As such it will be better treated on different and more general lines.

H. PARKER WILLIS.

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*Railway Control by Commissions.* By FRANK HENDRICK. (Questions of the Day Series.) New York: G. P. Putnam's Sons. 12mo, pp. 161.

THE magnitude of the transportation enterprise and its interrelations with modern industrial development are every day being brought into clearer relief. At the same time the question of regulation, in the public interest, is also engaging more attention. The recognition of the quasi-public functions of modern railroads has stressed the doctrines of the common law which proclaimed that common carriers were not exempt from regulation in the common interest. Many phases of the modern regulative policy have not properly appreciated the difficulties of regulation; and so the history of regulative experiments is often a history of aspirations rather than of results.

Mr. Hendrick's work, while it gives a general summary of the regulative experience of European countries, is concerned with European experience only in so far as it throws light upon American experience and practice. The regulative policy of European countries has been so well covered by Hadley and by Sterne that it is difficult for another to follow. What Mr. Hendrick adds is in the nature of detail. His work shows care and discrimination in the selection of material.

There is a lack, however, of scientific tone in the work. It is a polemic in favor of the "advisory" type of commission. From the outset the reader is confronted by the author's persistent declaration that the "advisory" type is the one type that is by nature fitted for success. In enforcing this thesis it would seem that he at times forces the facts of European experience. For example, apparently misled by the word "commission," he traces a parallelism between the Italian

Commission, which recommended the lease of the Italian railways, and the Massachusetts Commission (p. 32). In treating of the regulative policy of Austria he lays stress on his favorite dictum that it is public opinion rather than legislative regulation which has been the most efficient regulator. He bases this, in part, on the fact that it was the private opinion of Dr. Hertzka which led to the adoption of the "zone" system (pp. 35-36, 40-41). But surely this system had the compelling force of law placed behind it before it went into operation. While Belgium does not present an advisory commission, the author's mind is easy because, by a stretch of logic, King Leopold is looked upon as occupying a position somewhat analogous to that of the advisory commission. And all is well. Notwithstanding the fact that a policy of government ownership and regulation is favored in Prussia, the existence of consultative councils is resolved by the author into a conclusion that the railroads are under an advisory commission (p. 61). When the English regulative policy is approached it is found that it does not fit the Procrustean bed. The author's thought with reference to England may be fairly summed up—"England has been unsuccessful in her regulative policy because she has not possessed an advisory commission" (cf. p. 81). Even in Switzerland where the nation has declared for state purchase, the author discovers that, through the instrumentality of the referendum, the railroads are in reality under an advisory commission (p. 160).

From the summary already given it will readily be understood that the "strong" commission of the United States is ruled out of court. An explicit statement to this effect has been given by the author in an earlier section (p. 51). The author takes Illinois as the type and considers that it has followed a drastic policy which has been disadvantageous. His statement that the commission law of 1873 was passed with a view to making regulation more drastic is open to question; for under this legislation a much more elastic policy was possible than under the older maximum rate law. Nor is Mr. Hendrick's sweeping condemnation thoroughly justified by facts. That the commission legislation of Illinois has not met all expectations is true. That it has bettered conditions is also true. Had attention also been turned to Iowa it would have been found that there also commission regulation by the "strong" type has not been as devoid of useful results as the author assumes. The cardinal antithesis made by the author is between the commission with legal power and the commission

which relies upon public opinion. The constant claim of the Massachusetts Commission that it relies upon public opinion, and upon public opinion alone, should not blind us to the fact that the compelling force of law is behind the provisions for regulation of construction and of capitalization and these are two of the most important provisions of the Massachusetts law. In this connection attention may be directed to the New York Commission which is based on the Massachusetts legislation, although it has less power. The New York Commission which, in its operation, has a still more ample opportunity to rely upon public opinion, has been much less successful.

The author suggests that the Interstate Commerce Commission should be deprived of its quasi-judicial powers, and reorganized as an advisory commission. Subordinate to this commission, and co-operating with it, would be state commissions also of the advisory type. He would permit pooling arrangements (p. 118).

The work throughout shows careful painstaking research. But it is vitiated by an apparently *a priori* assumption that the advisory commission is of necessity best. In dealing with the regulative policy he regards it as unduly simple. When speaking of the regulative policy of England he says that the railroads have attempted to settle grievances impelled to this by the working "out of their self interest and their public spirit" (p. 74). By implication he considers that this tendency is always in operation, thereby greatly lessening the difficulties of regulation. Elsewhere he tells us that the proper solvent is not to be found in coercive regulation; governments "should appeal to the higher sentiments of citizenship, civic pride, honor, love, achievement and patriotism" (p. 91). Such a regulative policy is too vague to be applicable. The work done by the Massachusetts Commission has been of high rank; and Mr. Hendrick's plea for it has the advantage of supplementing the monographs of Clark and of Dixon. But it is too much in the nature of a plea. The author does not make sufficient allowance for differences in environmental conditions. The conditions of the West and South differ entirely from those that confront the Massachusetts Commission. To have proved that the Massachusetts Commission has worked well does not prove that it is best for all sections of the country. This is the author's thesis; and this he has not proved.

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